

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE APPLICATION FOR :
A REAL ESTATE SALESPERSONS LICENSE FOR :
: FINAL DECISION AND ORDER
GERALD T WICKERS, : LS0504011REB
APPLICANT. :

Based upon the Stipulation and information of record herein, the Department adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Gerald T. Wickers (Applicant) has filed an application for a credential to practice as a real estate salesperson in the state of Wisconsin.
2. Information received in the application process reflects that the Applicant was convicted on or about January 14, 2002 of the following crime: felony possession with intent to distribute in excess of 500 grams of cocaine.
3. The department and Applicant have entered into a Stipulation by which the department agrees to issue, and Applicant agree accept a limited real estate salesperson's license, subject to specified terms and conditions.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing has jurisdiction over this matter pursuant to Wis. Stat. § 452.05(1)(a) and authority to enter into a stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).
2. The facts and circumstances of the convictions referenced above are substantially related to the practice of a real estate salesperson, and Applicant by that conduct is subject to disciplinary action against his license pursuant to Wis. Stat. § 452.14(3).

ORDER

NOW, THEREFORE, IT IS ORDERED that Gerald T. Wickers is GRANTED a REAL ESTATE SALESPERSON'S LICENSE, subject to the following LIMITATIONS, TERMS AND CONDITIONS:

Compliance with Probation

1. Applicant shall comply with all terms of probation and/or parole imposed upon him, and make arrangements with his probation/parole officer to notify the Department Monitor **immediately** of any violation of probation/parole terms. In addition, Applicant shall provide his probation officer with a copy of this Final Decision and Order immediately. Applicant shall make arrangements for the submission of quarterly reports from his probation/parole office attesting to the status of his participation in probation/parole. Applicant shall provide the Board with current releases complying with state and federal laws, authorizing release and access to his probation and parole records.

AODA Treatment

2. Applicant shall maintain participation in the drug and alcohol treatment program as mandated as a term of his probation. Applicant shall participate in, cooperate with, and follow all treatment recommended by his AODA Treatment Provider.
3. Applicant shall immediately provide his Treatment Provider with a copy of this Final Decision and Order.
4. Applicant's Treatment Provider shall immediately report any relapse, violation of any of the terms and conditions of this

Order, and any suspected unprofessional conduct, to the Department Monitor c/o Department of Regulation and Licensing, Division of Enforcement, 1400 East Washington Ave., P.O. Box 8935, Madison, WI 53708-8935 Fax: (608) 266-2264 Telephone: (608) 267-3817 department.monitor@drl.state.wi.us

5. The Department reserves the right to set minimum therapy/treatment requirements for Applicant. Therapy may end only upon a determination by the Department or Department Monitor pursuant to a petition by Applicant for modification.
6. Applicant's Treatment Provider shall submit formal written reports to Department Monitor on a quarterly basis, as directed by Department Monitor. These reports shall assess Applicant's progress in the drug and alcohol treatment program. The Applicant's Treatment Provider shall report immediately to Department Monitor any violation or suspected violation of this Order.

Releases

7. Applicant shall provide and keep on file with his Probation Agent, Treatment Provider, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Department, its designee, and any employee of the Department of Regulation and Licensing, Division of Enforcement to: (a) obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Applicant's treatment and rehabilitation. Copies of these releases shall immediately be filed with Department Monitor.

Sobriety

8. Applicant shall abstain from all personal use of alcohol.
9. Applicant shall abstain from all personal use of controlled substances as defined in § 961.01(4), Stats., except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Applicant shall disclose Applicant's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Applicant shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Applicant's treatment with, and provide copies of treatment records to, Treatment Provider and the Department or Department Monitor.
10. Applicant shall refrain from the consumption of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Applicant's treatment and rehabilitation.

Drug and Alcohol Screens

11. Within thirty (30) days of this Order, Applicant shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department ("Approved Program"). A list of Approved Programs pursuant to Wis. Adm. Code § RL 7.11 is available from the Department Monitor.
12. At the time Applicant enrolls in an Approved Program, Applicant shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a violation of this Order. The requirements shall include:
 - (a.) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 - (b.) Production of a urine specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
13. The frequency of required drug screens shall be determined by the Department Monitor. For the first year of this Order, the Department Monitor shall require a total of not less than 52 screens, with credit afforded for screens provided as a

condition of Applicant's probation. The remainder of required screens shall be provided by the Approved Program.

After the first year, the frequency of screens may be reduced only upon a determination by the Department or Department Monitor after receiving a petition for modification.

14. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Applicant shall promptly submit to additional tests or examinations as the Treatment Provider or the Department or Department Monitor shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
15. In addition to any requirement of the Approved Program, the Department or Department Monitor may require Applicant to: (a) submit additional urine specimens, (b) submit blood, hair or breath specimens, or (c) furnish any specimen in a directly witnessed manner.
16. All confirmed positive test results shall be presumed to be valid. Applicant must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody.
17. The Approved Program shall submit information and reports to Department Monitor in compliance with the requirements of Wis. Adm. Code § RL 7.11. The Approved Program shall immediately report to Treatment Provider all specimens suspected to have been tampered with or which are positive or suspected positive for controlled substances or alcohol.

Practice Limitations

18. Applicant shall practice only under the general supervision of a licensed real estate broker approved by the Department or Department Monitor and only in a work setting pre-approved by the Department or Department Monitor.
19. Applicant shall provide a copy of this Final Decision and Order immediately to supervisory personnel at all settings where Applicant works or applies to work as a real estate salesperson.
20. It is Applicant's responsibility to arrange for written reports from supervisors to be provided to Department Monitor on a quarterly basis, as directed by Department Monitor. These reports shall assess Applicant's work performance.
21. Applicant shall report to the Department any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

Department Monitor

22. The Department Monitor is the individual designated by the department as its agent to coordinate compliance with the terms of this Order. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to: Department Monitor, Division of Enforcement, 1400 East Washington Ave., P.O. Box 8935, Madison, WI 53708-8935. Fax: (608) 266-2264 Telephone: (608) 267-3817 Email: department.monitor@drl.state.wi.us

Required Reporting

23. Applicant is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Applicant shall promptly notify Department Monitor of any suspected violations of any of the terms and conditions of this Order by Applicant and any failures of the Treatment Provider, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order.

Change of Treatment Provider or Approved Program by Department

24. If the Department or Department Monitor determines the Treatment Provider or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Department or Department Monitor may direct that Applicant continue treatment and rehabilitation under the direction of another Treatment Provider or Approved Program.

Petitions for Modification

25. Applicant may petition the Department for modification of the terms of this Order at any time. Any such petition shall be accompanied by a written recommendation from Applicant's probation officer and Treatment Provider expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of §227.01(3)(a), Stats., and Applicant shall not have a right to any further hearings or proceedings on the denial.

Costs of Compliance

26. Applicant shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Summary Suspension

27. A violation of any term of this Order may be the basis for a summary suspension of licensure pursuant to Wis. Admin Code ch. RL 6 or separate disciplinary action under Wis. Stat. § 452.14.

Dated at Madison, Wisconsin this 1st day of April, 2005.

Steven M. Gloe
On behalf of the Department of
Regulation and Licensing